

Jones v. Espanola Schools, et al.
Defendant Espanola's First Document Production to Plaintiff
000104

J-4611

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REGULATION REGULATION

STUDENT DISCIPLINE

The following are prohibited activities:

- Criminal or delinquent acts;
- Gang related activity;
- Sexual harassment
- Disruptive conduct;
- Refusal to identify self; and
- Refusal to cooperate with school personnel.

A student may be subject to disciplinary action when the student engages in the above or those below:

- Engages in conduct that is disorderly, i.e., intentionally causing public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, by:
 - Fighting or engaging in violent behavior.
 - Making unreasonable noise.
 - Using abusive or obscene language or gestures.
 - Obstructing vehicular or pedestrian traffic.
 - Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- Engages in conduct that is insubordinate, i.e., failing to comply with the lawful directions of a teacher, school administrator, or other school employee in charge of the student.
- Endangers the safety, morals, health, or welfare of others by any act, including but not limited to:
 - Selling, distributing, using, or possessing alcohol, drugs, or other controlled substances or drug paraphernalia.
 - Selling, distributing, using, or possessing weapons, fireworks, or other dangerous instruments or contraband.

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- Selling, using, or possessing obscene materials.
- Using profane, vulgar, or abusive language (including ethnic slurs).
- Gambling.
- Hazing.
- Engaging in lewd behavior.
- Engages in any of the following forms of academic misconduct:
 - Lateness for, missing, or leaving school or class without permission or excuse.
 - Cheating (including but not limited to copying, using unauthorized help sheets and the like, illegally obtaining tests in advance, substituting for a test-taker, and other forms of unauthorized collusion).
 - Plagiarism.
- Engages in conduct violative of the Board's rules and regulations for the maintenance of public order on school property.
- Has a record of excessive absenteeism.
- Is believed to have or actually has committed a crime.

Reasonableness of use of physical force in self-defense, defense of others, and defense of property will be considered as a mitigating factor in determining penalties for misconduct. The threat or use of physical force by a student is not reasonable (i) when made in response to verbal provocation alone, (ii) when assistance from a school staff member is a reasonable alternative, or (iii) when the degree of physical force used is disproportionate to the circumstances or exceeds that necessary to avoid injury to oneself or to others or to preserve property at risk.

The following acts may result in long-term suspension, expulsion, or placement in an alternative educational setting:

- Possession of alcoholic beverages, narcotics or controlled substances;
- Serious, continued, documented misbehavior/*habitually disruptive;

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- Serious vandalism of District property or any personal property on District property over the total value of one thousand dollars (\$1,000) including the cost of repair or replacement;
- Serious, continued fighting or threatening bodily injury to others; and
- Open and persistent defiance of District personnel, volunteers or visitors.

[*Declaration as a habitually disruptive student for which long-term suspension shall be mandatory. For purposes of this section, "habitually disruptive student" means a child who caused a disruption in the classroom, on school grounds, in school during vehicles, or at school activities or events, which resulted in five (5) suspensions during the school year because of behavior, which was initiated, willful and overt on the part of the child, and required the attention of school personnel to deal with the disruption. No child shall be declared to be an "habitually disruptive student" prior to the development of a remedial discipline plan for such child in accordance with the conduct and discipline code of the District.]

Alternative Educational Program

As an alternative to suspension or expulsion, the Española Public School District may reassign any student to an alternative education program.

The school site administrator may recommend to the Superintendent or the Superintendent's designee of the School District the placement of a student in an alternative educational program.

For the purposes of this section, "alternative educational program" means the modification of the school course of study and adoption of teaching methods, materials and techniques to provide education for those students in grades six (6) through twelve (12) as an alternative to suspension or expulsion.

Permissible Penalties

Depending upon the nature of the violation, student discipline may be progressive, i.e., generally, a student's first violation should merit a lighter penalty than subsequent violations. A District employee or agent should take into account all other relevant factors in determining an appropriate penalty. The penalties may be imposed either alone or in combination.

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The range of penalties that may be imposed for violations of student discipline rules include, but are not limited to, the following:

- Verbal warning.
- Written warning.
- Written notification to parents.
- Probation.
- Detention.
- Corporal punishment.
- Suspension from transportation.
- Suspension from athletic participation.
- Suspension from social or extracurricular activities.
- Suspension of other privileges.
- Exclusion from a particular class.
- In-school suspension.
- Involuntary transfer.
- Community service.
- Suspension.
- Expulsion.

Student Disciplinary Proceeding

Any teacher, administrator, Board member, parent, or other person may report a violation of student disciplinary rules to an administrator. The administrator will then make an investigation of the charges as deemed appropriate and will institute appropriate proceedings.

This information for the maintenance of public order on school property will be publicized and explained to all students and provided in writing to parents as requested. In order to promote effectiveness of student discipline, the assistance of parents in enforcing rules for student discipline shall be invited and encouraged.

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Involving Staff Members

The principal is responsible for involving staff members of the school in the development of a positive plan for student discipline. All staff members are responsible for implementing the plan of student discipline for the school.